

Federal Communications Commission

DA 04-3173

Before the
Federal Communications Commission
Washington, D.C. 20554

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DISPATCH

In the Matter of

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|----------------------------------|---|----------------------|
| Amendment of Section 73.202(b), |) | MB Docket No. 04-146 |
| Table of Allotments, |) | RM-10871 |
| FM Broadcast Stations. |) | |
| (Fort Rucker, Ozark and Slocomb, |) | |
| Alabama) |) | |

REPORT AND ORDER

Adopted: October 6, 2004

Released: October 8, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding.¹ Styles Media Group, LLC ("Styles Media") filed Comments. For the reasons discussed below, we are modifying the respective licenses of Station WXUS and Station WJRL to specify a new community of license.

Background

2. At the request of Styles Media, licensee of Station WXUS, Channel 263A, Fort Rucker, Alabama, and Styles Broadcasting of Dothan, Inc., licensee of Station WJRL, Channel 280C3, Ozark, Alabama, the *Notice* proposed the substitution of Channel 263C3 for Channel 263A at Fort Rucker, reallocation of Channel 263C3 to Slocomb, Alabama, and modification of the Station WXUS license to specify operation on Channel 263C3 at Slocomb. To maintain local service at Fort Rucker, the *Notice* also proposed the reallocation of Channel 280C3 from Ozark, Alabama, to Fort Rucker, and modification of the Station WJRL license accordingly.

Discussion

3. As requested by the Styles Media, we are substituting Channel 263C3 for Channel 263A at Fort Rucker, reallocating Channel 263C3 to Slocomb, Alabama, and are modifying the Station WXUS license to specify operation on Channel 263C3 at Slocomb.² To replace the loss of the sole local service at Fort Rucker, we are reallocating Channel 280C3 from Ozark to Fort Rucker and are modifying the Station WJRL to specify Fort Rucker as the community of license.³ Ozark will continue to receive local service from four stations. These reallocations will result in a preferential arrangement of allotments as required by the Commission in *Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License")*.⁴ In reaching this determination, we compared the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.⁵ In this instance, the reallocation will provide a first local service to Slocomb and result in

¹ *Fort Rucker, Ozark and Slocomb, Alabama*, 19 FCC Rcd 6836 (MB 2004).

² The reference coordinates for the Channel 263C3 allotment at Slocomb, Alabama, are 31-06-36 and 85-35-40.

³ The reference coordinates for the Channel 280C3 allotment at Fort Rucker, Alabama, are 31-26-33 and 85-32-21.

⁴ *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. 5 FCC Rcd 7094 (1990).

⁵ *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88 (1988). The FM allotment priorities are: (1)

a net service gain to 56,892 persons. The population losing service will continue to be served by more than five services.⁶ Slocomb is an incorporated community with a population of 2,052 persons according to the 2000 U.S. Census. We recognize that although Slocomb is not located within any Urbanized Area, Station WXUS will provide a 70 dBu signal to 68 percent of the Dothan Urbanized Area. In this instance, the reallocation of Channel 268C3 to Slocomb is entitled to consideration as a first local service.⁷ The population of Slocomb is significant and a Class C3 FM facility will invariably cover a substantial service area. Slocomb is also not dependent upon the Dothan Urbanized Area for its existence. Slocomb has an elected local government, police and fire departments, a school system, a monthly newspaper called the Town Crier, and its own post office and ZIP code. In addition, Slocomb has a public library, local businesses, restaurants, churches and day care centers.

4. Accordingly, pursuant to authority contained in Sections 4(i), 5 (c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 22, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

| <u>City</u> | <u>Channel No.</u> |
|----------------------|--------------------|
| Fort Rucker, Alabama | 280C3 |
| Ozark, Alabama | 285A |
| Slocomb, Alabama | 263C3 |

5. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Styles Media Group, LLC for Station WXUS, Channel 263A, Fort Rucker, Alabama, IS MODIFIED to specify operation on Channel 263C3 at Slocomb, Alabama, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may not be conducted in accordance with Section 73.1620 of the Commission's rules until Station WJRL commences operation on Channel 280C3 at Fort Rucker, Alabama;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter site or

First fulltime aural service; (2) Second fulltime aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

⁶ The Commission has considered five or more reception services to be "abundant." *Family Broadcasting Group*, 53 RR 2d 662 (Rev. Bd. 1983), *rev. denied*. FCC 83-559 (Comm'n Nov. 29, 1983); *see also LaGrange and Rollingwood, Texas*, 10 FCC Rcd 3337 (1995).

⁷ *See Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Styles Broadcasting of Dothan, Inc. for Station WJRL, Channel 280C3, Ozark, Alabama, IS MODIFIED, to specify operation on Fort Rucker, Alabama, as its community of license, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

7. Pursuant to Sections 1.1104(1)(k) and (2)(k) of the Commission's Rules, any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rulemaking fee when filing the application to implement the change in community of license and/or upgrade. As a result of this proceeding, the licensees receiving an upgrade and/or change in community of license are required to submit a rulemaking fee in addition to the fee required for the application to affect the upgrade and/or change in community of license.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

